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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF REAL ESTATE APPRAISERS

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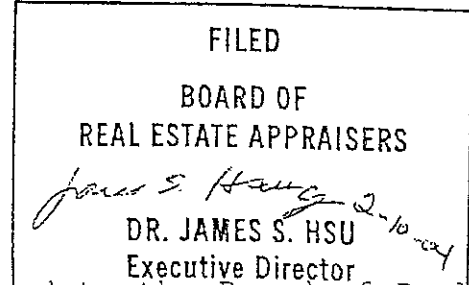
IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :

Administrative Action

ALEXANDER MARCOPUL

FINAL DECISION AND ORDER

TO PRACTICE AS A REAL
ESTATE APPRAISER
IN THE STATE OF NEW JERSEY



This matter was originally opened to the Board of Real Estate Appraisers ("Board") upon the filing of a complaint by then Attorney General David Samson, by Megan Matthews, Deputy Attorney General on December 9, 2002. An answer was filed on January 13, 2003. The Attorney General filed a motion for summary decision on March 26, 2003. That motion was supported by a brief as well as a two volume appendix, which included among other things, transcripts of prior investigative inquiries at which respondent had testified and documents pertaining to several appraisals which he had signed. A letter brief was submitted on respondent's behalf on April 16, 2003, by which he did not contest that there was a basis for disciplinary action. Respondent's own certification accompanied the letter brief and is part of the record in this matter. By his response he argued that the transgressions at issue, although violations of regulatory standards, could not be deemed to be repeated acts of negligence. He sought a hearing to offer evidence in mitigation of penalty. The deputy attorney general submitted an April 29 letter of reply.

The complaint in this matter charges in four counts that in the preparation of four appraisal reports respondent had violated the Uniform Standards of Professional Appraisal Practice (the "USPAP") by failing to indicate when a property he was appraising was currently being offered for sale, and failing to indicate that a property he was appraising had been sold within the past year, in violation of N.J.A.C. 13:40A-6.1 and thus N.J.S.A. 45:1-21(h). He was also alleged to have mischaracterized the condition of comparables. Indeed, it was alleged that respondent had used the same comparables from report to report, and described them differently from report to report. His mischaracterizations were alleged to be violations of N.J.S.A. 45:1-21 (b). The complaint further charged that respondent had improperly delegated the preparation of the appraisal report virtually entirely to an apprentice, his son, Alexander, Jr. The complaint charged that his conduct evidenced repeated acts of negligence as well as professional misconduct, in violation of N.J.S.A. 45:1-21 (d) and (e). The four reports each contained a certification, signed by respondent, stating: "No one provided significant professional assistance to the person signing this report," notwithstanding the fact that, by respondent's own admission, an apprentice did significant work in connection with these reports. By his motion for summary decision, the Attorney General maintained that respondent's specific admissions at investigative inquiries, when

coupled with certain self-evident facts, provided basis for the discipline. Accordingly, the Board considered the Attorney General's motion and respondent's reply at its May 13, 2003 meeting and determined to grant that motion. The Board found that the Attorney General had proven all of the allegations and that basis existed pursuant to N.J.S.A. 45:1-21 upon which a penalty could be grounded. It expressly rejected the argument that the multiple mischaracterizations and deviations from regulatory standards could not provide grounds for discipline pursuant to N.J.S.A. 45:1-21(d). The Board granted respondent's request for a hearing on the issue of what the appropriate penalty should be.

Counsel were advised by letter of May 27, 2003 of the Board's determination on the motion. A full explanation of the Board's findings of fact and conclusions of law, is more fully set forth in this order.

FINDINGS OF FACT

In the summer of 2001, the Board of Real Estate Appraisers ("the Board") was asked by the Division of Consumer Affairs ("the Division") to conduct investigative inquiries with regard to several real estate appraisers in connection with a Division investigation into predatory lending. A committee of the Board held investigative inquiries on August 23, 2001 and September 20, 2001 with regard to respondent Alexander Marcopul's appraisal practice, and certain specific reports. In the course of these inquiries,

respondent admitted certain facts as to the four appraisal reports at issue.

FINDINGS OF FACT

1) Count I - Specific to the appraisal of 33 Allen Street, Irvington

a) Sales History: This property was listed for sale for \$36,000 at the time of respondent's report, which was dated September 13, 2000. It sold in July of 2000 for \$40,000. Respondent's report stated that there had been no prior sales of the property within a year. Standards Rule 1-5 requires an appraiser to analyze any current listing of the property. Respondent subscribed to the Garden State Multiple Listing Service, yet he claimed this listing did not turn up in his research.

b) Comparables: Respondent's report characterized the property, 33 Allen, as in "average" condition; respondent admitted that it should have been characterized as in "fair" condition, i.e., less than average. He utilized a number of properties as comparables when available information would have established that they were not in fact comparable.

i. Respondent's report characterized comparable #1, 816 Lyons, as in "average" condition. Respondent admitted that

Respondent himself described the sale of 33 Allen as a "flip." The Board notes that adherence to Standards Rule 1-5 helps protect against "flips." Respondent's failure to indicate the listing for sale of 33 Allen at a price significantly lower than his value conclusion thus served to facilitate this practice.

he should have described it as in "average plus" or "good" condition.

ii. Respondent's report described comparable #3, 20 Temple Place, as in "average" condition. Respondent admitted that the condition of this property should have been "average plus to good."

iii. Although respondent did not acknowledge any irregularities with regard to comparable #2, 39 Krotik Place, the description in the multiple listing, which was the source of respondent's information about the comparable, read as follows: "Great home in good upper Irvington location. Nice condition. Delightful front porch. Show and sell." The description in the multiple listings of 33 Allen, the property being appraised, was: "Sold as is. Uninsured. . . . Vacant. Use caution when showing. Bring flashlight." Both properties were described as in "average" condition in respondent's report. The discrepancy in the descriptions is so pronounced that the Board finds no reasonable basis exists whereby an appraiser could characterize both properties as being in the same condition." Respondent admitted that had the

* The Board notes that an appraiser generally has access to the property being appraised (the subject property) and may make a physical inspection of that property. Thus an appraiser generally has actual knowledge of the condition of the subject property. An appraiser generally does not have actual knowledge of the condition of the comparables, which are typically selected by seeking properties in the multiple listings which have sold recently; are in the same geographic location as the subject; and appear to be otherwise similar to the subject, in terms of size and condition. Adjustments are made to allow for differences in amenities, number of bedrooms and bathrooms, lot size, and so forth.

The Board is aware that a method used by an appraiser seeking to artificially inflate the value of the subject property, whether to ensure that a property qualifies for mortgage financing in an individual instance, or as part of a broad scheme to inflate value in order to engage in mortgage fraud, is to select comparable properties from the multiple listings in the same geographic area as the subject using sale price as a selection criterion, while ignoring or making inadequate adjustments for discrepancies that emerge in the property description in the multiple listings. While the Attorney General did not allege that respondent deliberately attempted to inflate value, the Board notes that respondent's

report indicated the revised description of the properties' condition, it would have affected the report's value conclusion to a "significant" extent.

2) Count II - Specific to the Appraisal of 224 Weequahic:

a) Sales History: Respondent appraised the property at \$125,000 on September 13, 2000. The property was sold on August 9, 2000 for \$44,000 to Neighborhood Properties Group. The sale was not recorded until January 23, 2001. Respondent did not research the sales history. Respondent indicated in the report that there were no prior sales of the subject property in the last year.

b) Cost of Improvements: Respondent appraised this property subject to certain improvements. The property, as respondent acknowledged in his testimony, was roach-infested, had holes in the walls, floors and ceilings, and needed a new roof. However, respondent acknowledged in his testimony that he did not examine plans or specifications, or have any documentation with regard to the cost and type of the proposed improvements.

c) Comparables: Respondent admitted to a "screw-up" with regard to the room count and depiction of the condition of some of the comparables in the report:

i. Respondent admitted that the report's characterization of comparable #3, 60 Hansbury, as "average" was inaccurate.

ii. He also admitted that comparable #2, 18 Goldsmith, should not have been described as "average," and the value

errors are of a type that would facilitate the artificial inflation of value in an appraisal report.

of the subject should have been adjusted downward accordingly.

iii. Respondent further admitted to an error in the adjustment for the condition of comparable #4, 27 Weequahic, which inflated the value of the subject by \$2500, instead of lowering it by \$2500.

iv. Room count issues: Respondent's report indicated comparable #1 had 8 rooms, including 4 bedrooms and 2 bathrooms; the multiple listing shows 10 rooms, with 5 bedrooms and 1 bathroom. The report shows comparable #2, 18 Goldsmith, has 8 rooms, with 3 bedrooms and 1.5 bathrooms. The multiple listing shows 10 rooms, with 5 bedrooms and 2 bathrooms. The report shows comparable #4, 27 Weequahic, has 8 rooms, including 4 bedrooms and 1.5 bathrooms. The multiple listing shows 27 Weequahic has 9 rooms, with 5 bedrooms and 2 $\frac{1}{2}$ bathrooms.*

3) Count III -Specific to the appraisal of 172-174 Vassar

Respondent's report, dated August 23, 2000, indicated there had been no prior sale of the subject within a year. However, Eon Institute acquired the property two days before the date of the report for \$82,000; and sold the property on August 30, 2000 for \$135,000. The deeds were not recorded until October, however respondent knew of Eon's ownership of the property. This knowledge should have triggered an investigation, suggesting a sale within the past year, because the on-line records search customarily used by licensed appraisers would have indicated a different owner of record.

Respondent testified that the source of his information about the comparables was from the multiple listings. Respondent was unable to explain why the information in his reports differed from the information in the multiple listings.

4) Findings Common to Appraisals of 33 Allen, 224 Weequahic and 172-174 Vassar

a) Absence of Supervision of an Apprentice: Pursuant to N.J.A.C. 13:40A-4.6, respondent, as a supervising appraiser, was required to directly supervise the work of his trainee, his son. By his own admission, however, respondent did not directly supervise his son's work in connection with the reports at issue. Respondent testified that the errors with regard to condition in the report on 33 Allen Street were due to the fact that respondent's son, and not respondent, had looked at multiple listing descriptions; that respondent's supervision had "become lax"; that he himself had "no way of knowing" whether 224 Weequahic was listed for sale at time he appraised property, because research of this was left to apprentice; and that sales history of 172-174 Vassar was not investigated because his apprentice would not have recognized investigation was indicated where change of owner of record suggested a recent sale had occurred. Taken together, there is no discernible pattern of any meaningful supervision by respondent.

b) Absence of Contract Analysis Expected of a Licensee Respondent's appraisal reports indicated respectively that 33 Allen Street, Irvington was under contract for sale for \$105,000; that 224 Weequahic was under contract for sale for \$140,000; that 172-174 Vassar was under contract for sale for \$140,000. Respondent failed

to analyze the contracts, as required by Standards Rule 1-5 of the USPAP.

5) Common to Four Reports

Respondent signed a certification in his reports (33 Allen Street; 224 Weequahic; 172-174 Vassar; 229 Goldsmith Avenue, Newark) stating that no one provided significant professional assistance in preparing the report. By his own admissions, this certification is clearly false.

6) Discrepancies in "Comparables" descriptions: Comparables were described differently in three different reports, although the reports were prepared within three weeks of one another.

i. Comparable 141 Keer Ave., Newark (Count IV, ¶5 of Complaint) was described as having 8 rooms, including 4 bedrooms and 2 bathrooms, and with a gross living area of 1800 square feet (appraisal of 224 Weequahic); 10 rooms, including 5 bedrooms and 2 bathrooms, and a gross living area of 1900 square feet (appraisal of 229 Goldsmith, Newark); and 8 rooms, including 4 bedrooms and 2 bathrooms, and a gross living area of 2500 square feet (appraisal of 172-174 Vassar). Respondent admitted the differences were significant.

ii. Comparable 18 Goldsmith Avenue, Newark (Count IV, ¶6 of Complaint) was described as having 8 rooms, including 3 bedrooms and 1 ½ bathrooms, and a gross living area of 1800 square feet (appraisal of 224 Weequahic); 10 rooms, including 5 bedrooms and 3 bathrooms, and a gross living area of 1900 square feet (appraisal of 229 Goldsmith); and 7 rooms, including 3 bedrooms and 2 bathrooms, and a gross living area of 2500 square feet (appraisal of 172-174 Vassar).

iii. Comparable 255 Pomona, Newark (Count IV, ¶7 of Complaint) was described as having 9 rooms, including 5 bedrooms and 2 bathrooms, and a gross living area of 1700 square feet (appraisal of 229 Goldsmith); and 9 rooms, with 4 bedrooms and 1 ½ bathrooms, and a gross living area

of 2300 square feet. Respondent admitted the differences were significant.

CONCLUSIONS OF LAW

1. Count I - Specific as to the appraisal of 33 Allen Street)a

Respondent's failure to research the sales history of 33 Allen Street, and his failure to ascertain whether 33 Allen Street was currently listed for sale when he appraised the property, constitutes a violation of Standards Rule 1-5(a) and (b), respectively, of the USPAP. It is also misleading within the intendment of the Conduct Section of the Ethics Rule of the USPAP. (Count I, ¶14)

b) Respondent's mischaracterization of the condition of the subject and the comparables in the appraisal of 33 Allen Street constitutes a violation of Standards Rule 1-1(a), (b) and (c) of the USPAP. It is also misleading within the intendment of the Conduct Section of the Ethics Rule of the USPAP. (Count I, ¶1)

c) The USPAP violations detailed above constitute professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h). (Count I, ¶19)

d) In addition, by indicating in the appraisal report that there were no prior sales within a year and by the mischaracterization of the condition of 33 Allen Street and the comparables, respondent has engaged in misleading and/or deceptive conduct subjecting him to sanctions pursuant to N.J.S.A. 45:1-21(b). (Count I, ¶20)

2. Count II - Specific as to the Appraisal of 224 Weequahic:

a) Respondent's failure to research the sales history of 33 Allen Street; and his failure to ascertain whether 224 Weequahic was currently listed for sale when he appraised the property, constitutes a violation of Standards Rule 1-5(a) and (b), respectively, of the USPAP. In addition, his indication in the report that there were no prior sales within the last year is misleading within the intendment of the Conduct Section of the Ethics Rule of the USPAP. (Count II, ¶13)

b) Respondent's failure to examine plans or specifications or other documentation sufficient to document the scope, character and cost of the proposed improvements to 224 Weequahic constitutes a violation of Standards Rule 1-4(h). (Count II, ¶16)

c) Respondent's mischaracterization of the condition of the comparables in the appraisal of 224 Weequahic constitutes a violation of Standards Rule 1-1(a), (b) and (c) of the USPAP. It is also misleading within the intendment of the Conduct Section of the Ethics Rule of the USPAP. (Count II, ¶17)

d) The USPAP violations detailed above constitute professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h). (Count II, ¶19)

e) In addition, by respondent's indication in the appraisal report of 224 Weequahic that there were no prior sales within a

year when he had not investigated the subject's sales history, and by respondent's mischaracterization of the condition of the comparables, respondent has engaged in misleading and/or deceptive conduct subjecting him to sanctions pursuant to N.J.S.A. 45:1-21(b). (Count II, ¶20)

f) Respondent's divergence in the report with regard to the room count of the comparables from the room count in the multiple listings, the source of his information, subjects him to sanctions pursuant to N.J.S.A. 45:1-21(d); both independently, and in concert with other acts of negligence indicated in the Findings of Fact. (Count II, ¶21)

3. Count III - Specific to the Appraisal of 172-174 Vassar Avenue

a) Respondent's indication in the report that there had been no prior sale of the subject within a year, although Eon Institute acquired the property two days before the valuation date of the report, and respondent knew or should have known of the likelihood of a recent sale of the subject to Eon Institute, constitutes a violation of Standards Rule 1-5(a) of the USPAP. It is also misleading within the intentment of the Conduct Section of the Ethics Rule of the USPAP. (Count III, ¶10)

b) The USPAP violations detailed above constitute professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h). (Count III, ¶14).

c) The conduct indicated above is also misleading and/or deceptive conduct subjecting him to sanctions pursuant to N.J.S.A. 45:1-21(b). (Count III, ¶15)

4. Common to Appraisals of 33 Allen, 224 Weequahic and 172-174 Vassar

a) Respondent's failure to directly supervise his apprentice in the preparation of the above reports constitutes a violation of N.J.A.C. 13:40A-4.6(b). It is also misleading within the intendment of the Conduct Section of the Ethics Rule of the USPAP, in that respondent's signature on the report indicates that he is responsible for the information provided in the report. (Count I, ¶17; Count II, ¶14; Count III, ¶11)

b) Respondent's failure to analyze the contracts for sale in the above reports constitutes a violation of Standards Rule 1-5(a) of the USPAP. (Count I, ¶15; Count II, ¶15; Count III, ¶12)

c) This conduct constitutes professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h). (Count I, ¶19; Count II, ¶19; Count III, ¶14)

d) Respondent's failure to directly supervise his apprentice is also misleading and/or deceptive conduct subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(b). (Count I, ¶20; Count II, ¶20; Count III, ¶15)

5. Common to Appraisals of 33 Allen, 224 Weequahic, 172-174 Vassar and 229 Goldsmith

a) Respondent's certification in these reports that he received no significant assistance with these reports, when his testimony indicates that his apprentice provided significant assistance with the reports, is misleading within the intendment of the Conduct Section of the Ethics Rule of the USPAP, as well as a violation of Standards Rule 2-3. (Count I, ¶18; Count II, ¶18; Count III, ¶13; Count IV, ¶10)

b) This conduct constitutes professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h). (Count I, ¶18; Count II, ¶18; Count III, ¶13; Count IV, ¶10)

c) The conduct indicated above is also misleading and/or deceptive conduct subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(b). (Count I, ¶18; Count II, ¶18; Count III, ¶13; Count IV, ¶10)

6. Discrepancies in Comparables Descriptions: 224 Weequahic; 229 Goldsmith; 172-174 Vassar

a) Respondent's differing descriptions of the same comparables in three different reports, with regard to room count and gross living area, constitutes a violation of Standards Rule 1-1(c) of the USPAP. (Count IV, ¶9)

- b) The USPAP violation detailed above constitutes professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h). (Count IV, ¶9)
- c) The above conduct also subjects respondent to sanctions pursuant to N.J.S.A. 45:1-21(d) for repeated acts of negligence, both independently, and in concert with other acts of negligence indicated in the Findings of Fact. (Count IV, ¶9)

DISCUSSION

Unquestionably, respondent's errors reflect upon respondent's competence and his attitude. More important, however, is that the above-detailed conduct goes to the heart of the purpose behind the enabling legislation that created the Board: to prevent the weakening of the nation's financial institutions by means of fraudulent real estate transactions. Respondent's errors and omissions are of the type that facilitate "flips." For this reason, the Board finds that respondent's conduct merits a significant regulatory response.

Respondent's conduct demonstrates an abrogation of the function envisioned for real estate appraisers when the Financial Institutions Restitution, Recovery and Enforcement Act of 1989 (FIRREA) prompted the creation of the state regulatory boards, following the savings and loan crisis of the 1980s. Appraisal reports are required by financial institutions in order to provide assurance that, in a worst-case scenario, where mortgage loans are

granted and are not repaid, the underlying property can be sold for enough money to cover any loss by the financial institution, or the institutions to whom the lending institution ultimately sells the mortgage. Where the value conclusion of an appraisal report is significantly inflated, the assurance is a false assurance. The effect of faulty appraisals, in particular inflated appraisals, was an important motive force in the savings and loan crisis, and ultimately the creation of the Board itself.

Previously, mortgage institutions might have held on to the mortgages they granted indefinitely. However, under current practices, these loans are generally sold to other institutions. Ultimately, they are often packaged according to their degree of risk at a clearing house-type entity, and are sold to individual and institutional investors, some of which may include private and state pension funds. Thus inflated appraisals do not simply have the potential to harm the individual financial institution that grants the loan, but to harm the general public.

When the most important tasks in the performance of an appraisal are handed over wholesale to a virtually unsupervised apprentice, no reliance can be placed upon the conclusions in the reports. Nevertheless, financial institutions need to rely on those reports when making determinations to authorize hundreds of thousands of dollars in loans. Further, unsophisticated consumers may be relying upon "the system" to protect them, in that they

assume that a mortgage company will not lend them money to purchase property which is not worth the face value of the loan. Respondent acknowledged, at least in the case of 33 Allen Street, that the transaction with regard to that property involved a "flip" - which the Board understands to be recognized as the transfer of property where inflated prices have been used to obtain loans by fraud. The title histories of other properties appraised by respondent suggest that careful scrutiny was warranted in preparing these reports, rather than what respondent's testimony conveyed: permitting an apprentice to perform investigations and obtain information with little or no supervision.

Particularly telling is the handling of the report appraising 172-174 Vassar, for example. Respondent's knowledge of the ownership of the property by Eon Institute should have triggered an inquiry into when the property had last changed hands, since the records respondent claims to consult regularly would have indicated a different owner. An inquiry into the sales history would have demonstrated a prior sale within one year, information which is crucial in detecting whether a "flipping scheme" involving fraud is occurring.

Respondent's arguments in mitigation do not significantly detract from the gravity of or even explain respondent's conduct. Respondent maintains that he is a service-oriented individual, as demonstrated by his having served his country for three years;

worked for the telephone company; worked as a police officer for ten years; and worked as an appraiser for approximately 20 years, an occupation he professed to "really enjoy." He indicated that during a two or three month period, the period which included the time frame during which the appraisal reports at issue in this matter were produced, he was undergoing serious problems in his personal life and business which caused him to commit errors of judgment.

Respondent enumerated the following problems which he claimed influenced him during the timeframe in which the four appraisal reports at issue were performed: he had broken up with a longtime girlfriend, and become involved in a new love relationship which did not work out; he had diabetes, which led to the formation of cataracts, which caused him difficulty in seeing appraisal reports he reviewed, as well as in driving; he had problems with his computer; and he had overexpanded his business so that he had too many apprentices working for him, and found he had "bit off more than [he] could chew." He resolved these problems by becoming involved with "Angie," his current girlfriend; by downsizing; obtaining a good computer program; and having cataract surgery.

Three character witnesses appeared to testify for respondent. The first was Khamed Mostafa, a mortgage banker, and president of an entity called Forest Financial, a company that had closed over \$500 million in residential mortgages the previous year,

) predominantly through FHA, Fannie Mae and Freddie Mac. Mr. Mostafa testified that he had known respondent for more than 12 years, found him to be conscientious, and a person of honesty and integrity. However, he acknowledged that he was not familiar with the specifics of respondent's conduct with regard to the four appraisal reports. Thomas Bock, the president of Mortgage Plus Financial Group in Newark, New Jersey, a company dating from 1995, testified that he had known respondent for approximately twelve years, that he found respondent's reports were generally accurate, and that respondent was an easygoing and honest individual. Rodney G. Kirkland, a former Board member, who presently owns a real estate appraisal company, testified that he had known respondent for 19 years, had a personal and professional relationship with respondent, and found him to be an upstanding individual who "cared" about his business activity. All the witnesses testified that they would continue to use respondent's services in the future, as long as he remained a licensed appraiser.

) Respondent's difficulties, although not unimportant, appear only tangentially relevant to respondent's conduct here. Neither respondent or his counsel related these problems specifically to the Board's findings of fact and conclusions of law. Presumably, respondent's argument is that because of these problems he was distracted, and therefore lax in his supervision of his son's work. This argument is not convincing. When an appraiser signs a report,

he takes responsibility for that report. Respondent was the only licensed appraiser signing the four reports. To absolve him from responsibility for the misrepresentation of the condition of comparables, or for the failure to adequately research the sales history of properties being appraised, because of an unhappy love life or developing medical problems, would be to provide appraisers with a blanket excuse for the avoidance of responsibility for their reports whenever an apprentice's services have been employed. Problems with relationships, illnesses, computer problems, these are among the ordinary vicissitudes of life from which few people are exempt. They may provide a reason, if not necessarily an excuse, for an occasional act of simple negligence. They cannot, however, either explain or excuse the abrogation of one's essential professional obligations. In this particular case, moreover, they do not explain why the errors with regard to the reporting of current or prior sales history and description of property condition all tended towards the inflation of the value of the property being appraised, or the avoidance of the reporting of information that might cast doubt on the value conclusion. Nor do respondent's problems explain or excuse respondent's misrepresentations in his certifications with regard to his receipt of professional assistance. Whether in psychic pain or not, an appraiser ought to be aware of whether or not he has received significant assistance in preparing a report.

Respondent's counsel made reference to previous disciplinary actions taken by the Board, and attempted to differentiate respondent's conduct from the conduct of others who had been disciplined. The Board is not bound by its prior actions in other cases. However, even if it were so bound, counsel's references were not specific enough either in describing the prior conduct that was the subject of Board action, or of the prior penalty imposed, to permit of any meaningful comparison. Moreover, we find the pattern of misrepresentation pervasive, and the abdication of basic professional responsibilities egregious. Respondent acknowledged that he took no steps to rectify the reports issued.

With respect to the penalty to be imposed, respondent's false certifications in and of themselves cast doubt upon respondent's integrity. Respondent's suspension would be fully supported on the basis of these misrepresentations alone. Likewise the monetary penalties could well have been assessed for the underlying misrepresentations and negligence alone. The Board has eschewed a more stringent penalty with the hope and expectation that respondent, if he returns to practice, will resolve to practice with greater vigilance. Future transgressions will not be deserving of leniency. Our expectations for the strictest of compliance with the standard of care and the ethical tenets of the profession will be at the highest level.

ACCORDINGLY, it is on this 10th day of February, 2004

ORDERED:

1. Respondent's license to practice as a real estate appraiser in New Jersey shall be and hereby is suspended for a period of five years, the first three years of which shall be served as an active suspension, during which respondent shall be barred from engaging in any practice, and shall fully comply with N.J.A.C. 13:40A-7.9. During the remaining two years, respondent shall be on probation, and during the entire time of the probation he shall remain under the supervision of licensed real estate appraiser, approved by the Board. During this probationary period he shall not serve as the supervisor for others and shall maintain a log of all work performed, subject to inspection of the Board. No time shall count towards the three year period of suspension if respondent is practicing in any jurisdiction, in the United States or abroad. The suspension shall be effective on the date of the entry of this order.

2. Respondent shall pay a penalty in the amount of \$20,000, within thirty days of the entry of this Order or subject to such plan for payment as may be approved by the Board.

3. Respondent shall pay the State's costs, in the sum of \$2,748.00 in investigative costs (Exhibit J) and \$4,258.80 in attorney fees (as reflected in the Certification of Megan Matthews, Deputy Attorney General, dated April 29, 2003), for a total of

\$7,006.80, within 30 days of the entry of this order, or subject to such plan for payment as may be approved by the Board.

4. Before any return to practice respondent shall demonstrate compliance with the probationary requirements and full payment of all sums assessed herein.

NEW JERSEY STATE BOARD OF REAL ESTATE APPRAISERS

BY: 

Ronald Curini, S.C.G.R.E.A
Board President